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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EDDIE BAUER, INC., a Delaware corporation,

Plaintiff,

vs.

THE BRUNTON COMPANY, a Wyoming
corporation,

Defendant.

Case No. 03-2684 *EBV*

VERIFIED COMPLAINT

INTRODUCTION

1. Plaintiff Eddie Bauer, Inc. (hereinafter, "Eddie Bauer") develops, markets and licenses various sporting goods accessories. Defendant The Brunton Company develops and manufactures certain sporting goods accessories. Brunton willfully and knowingly breached and violated a licensing agreement it entered into with Eddie Bauer, in which Eddie Bauer agreed to allow Brunton to use the words "Eddie Bauer" on certain sporting goods accessories that were to be developed, designed and marketed by Brunton for distribution in the United States.



03-CV-02684-CMP

VERIFIED COMPLAINT - 1

HOLMES WEDDLE & BARCOTT

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SEATTLE, WASHINGTON 98104-4011
TELEPHONE (206) 292-8008

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1. **PARTIES**

2. Plaintiff Eddie Bauer, Inc. is a Delaware corporation with its principal
3. place of business at 15010 N.E. 36th Street, Redmond, Washington. Eddie Bauer is the
4. developer and distributor of certain sporting goods accessories, clothing and other goods.

5. Defendant The Brunton Company is a Wyoming corporation with its
6. world headquarters and principle place of business in Riverton, Wyoming.

7. **JURISDICTION**

8. 4. This Court has jurisdiction over this case under 28 U.S.C. §§ 1332 in that
9. there is diversity of citizenship between the parties and the amount in controversy
10. exceeds \$75,000.

11. **FACTS**

12. 5. Eddie Bauer develops, markets and licenses certain sporting goods
13. accessories, clothing and other fashion and merchandise items. Eddie Bauer also is a
14. leading international retail brand, offering casual lifestyle products for adults through its
15. retailing concepts. Eddie Bauer products are for men and women who seek versatile,
16. classically styled, high-quality merchandise designed to meet the wide range of their
17. apparel and home furnishing needs. Since 1920, Eddie Bauer has evolved from a single
18. store in Seattle to a tri-channel, company with more than 590 stores worldwide, 110
19. million catalogs and online websites.

20. 6. In October of 2002, Eddie Bauer and Brunton entered into a License
21. Agreement (Attached hereto as Exhibit A) in which Eddie Bauer granted to Brunton the
22. right to use the name "Eddie Bauer" on certain sporting goods accessories, which were to
23. be designed and marketed by Brunton for distribution in the United States.

24. 7. Upon execution of the agreement, Brunton was obligated to pay Eddie
25. Bauer a guaranteed minimum royalty of \$150,000.00 over the course of the term of the
26.

1. agreement. The \$150,000 was payable in installments, and specifically \$25,000 on
2. execution of the agreement.

3. 8. To date, no royalty payment has been made, and Brunton has advised
4. Eddie Bauer that it does not intend to make the first payment, or any other payments as
5. set forth in and required by the contract.

6. 9. The minimum royalty payment of \$150,000 was deemed earned at the
7. execution of the agreement on October 29, 2002.

8. 10. The failure by Brunton to pay the first installment of the guaranteed
9. minimum royalty constitutes a material breach of the Agreement. Likewise, the failure of
10. Brunton to pay the \$150,000 earned royalty constitutes a material breach of the
11. agreement.

12. 11. As a result of the breach of the licensing agreement by Brunton, Eddie
13. Bauer has suffered and continues to suffer immediate and irreparable harm.

14. **COUNT I**

15. (Breach of Licensing Agreement against Brunton)

16. 12. Eddie Bauer repeats, realleges and incorporates by reference herein the
17. allegations set forth in paragraphs 1-11 above.

18. 13. By failing to pay the first installment of the guaranteed minimum royalty,
19. and advising Eddie Bauer that it will not pay any part of the nonrefundable guaranteed
20. minimum royalty of \$150,000, Brunton breached the express terms of the licensing
21. agreement.

22. 14. As a result, Eddie Bauer has suffered and continues to suffer damages and
23. irreparable injury.
24.
25.
26.

1. **WHEREFORE**, Plaintiff respectfully request that this Court:

2. A. Enter judgment in favor of Plaintiff on Count I in an amount to be determined
3. at trial.

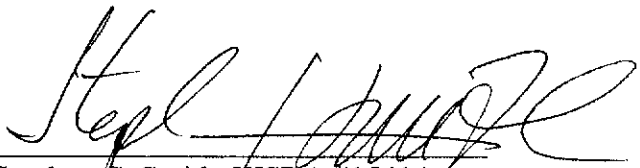
4. B. Impose penalties for willful violation of the licensing and contract laws.

5. C. Order such further relief as the Court deems just and proper.

6. PLAINTIFFS HEREBY REQUEST A JURY ON ALL ISSUES SO TRIABLE.

7. DATED this 4th day of September, 2003.

8.
9. HOLMES WEDDLE & BARCOTT

10. 
11. Stephen C. Smith, WSBA #15414
12. Attorneys for Eddie Bauer, Inc.
13.

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VERIFICATION

Donald Perinchief hereby states:

1. I am a Divisional Vice President for Eddie Bauer, Inc.
2. I have read the foregoing verified complaint, which I declare to be true and correct to the best of my knowledge, information and belief.

SWORN TO UNDER THE PAINS AND PENALTIES OF PERJURY UNDER
THE LAWS OF THE STATE OF ILLINOIS AND THE UNITED STATES.

EXECUTED ON August 28, 04 AT REDMOND, WASHINGTON.


Donald Perinchief